

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARVON D. GREEN,
Petitioner,
v.
BRIAN KIBLER,
Respondent.

No. 2:21-cv-1397 JAM KJN P

ORDER

Petitioner is a state prisoner, proceeding pro se. On November 10, 2021, petitioner filed a notice and request for ruling, claiming that due to respondent's failure to timely respond petitioner's habeas petition should be granted. However, on November 5, 2021, respondent timely sought an extension of time to respond, which was granted by the court on November 9, 2021.¹

On November 12, 2021, respondent filed a motion to dismiss. On November 15, 2021, petitioner objected to the court granting petitioner a seven-day extension of time, and complained that while the respondent was granted sixty days to respond, petitioner was only granted thirty days to reply. Petitioner does not appear to seek an additional sixty days in which to oppose

¹ In any event, default judgments are not available in federal habeas corpus actions. See Gordon v. Duran, 895 F.2d 610 (9th Cir. 1990) (failure of the state to file a timely response to petition "does not entitle the petitioner to a default judgment"); Blietner v. Wellborne, 15 F.3d 652 (7th Cir. 1994) ("default judgments are disfavored in habeas corpus cases") (collecting cases).

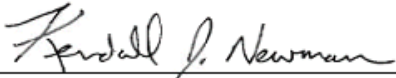
1 respondent's motion. In an abundance of caution, petitioner is granted thirty days from the date
2 of this order in which to oppose respondent's motion to dismiss. If petitioner needs additional
3 time, he may explain why and request an extension of time just as respondent did.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Petitioner's request for ruling (ECF No. 19) is denied.

6 2. Petitioner shall file his opposition to respondent's motion within thirty days from the
7 date of this order.

8 Dated: November 18, 2021

9 
10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE

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